

FILED

17 FEB 15 AM 11:34

CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MXN

DEPUTY

BY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

MATTHEW B. TAYLOR,

Plaintiff,

v.

CAROLYN W. COLVIN, Acting  
Commissioner of Social Security,

Defendant.

Case No.: 15-cv-02663-BEN-JLB

**ORDER:**

**(1) ADOPTING REPORT AND  
RECOMMENDATION;**

**(2) DENYING PLAINTIFF'S  
MOTION FOR SUMMARY  
JUDGMENT; and**

**(3) GRANTING DEFENDANT'S  
CROSS-MOTION FOR SUMMARY  
JUDGMENT**

Plaintiff Matthew B. Taylor filed this action seeking judicial review of the Social Security Commissioner's denial of his application for disability insurance benefits. (Docket No. 1). Plaintiff filed a motion for summary judgment (Docket No. 28), and Defendant filed a cross-motion for summary judgment and an opposition to Plaintiff's motion (Docket Nos. 29-30).<sup>1</sup>

---

<sup>1</sup> During the underlying administrative proceedings and in filing the operative complaint, Plaintiff was represented by counsel. In filing his motion for summary judgment, Plaintiff proceeds pro se.

On December 29, 2016, Magistrate Judge Jill L. Burkhardt issued a thoughtful and thorough Report and Recommendation, recommending that this Court deny Plaintiff's motion for summary judgment and grant Defendant's cross-motion for summary judgment. (Docket No. 31). Magistrate Judge Burkhardt found that even construing Plaintiff's filings liberally, he failed to adequately dispute the Administrative Law Judge's ("ALJ") findings and determination that he is not disabled and, for this reason, summary judgment in his favor is not warranted. *See Indep. Towers of Wash. v. Washington*, 350 F.3d 925, 929 (9th Cir. 2003) ("Our circuit has repeatedly admonished that we cannot 'manufacture arguments for an appellant' . . . . Rather, we 'review only issues which are argued specifically and distinctly in a party's opening brief.' Significantly, 'a bare assertion of an issue does not preserve a claim.'"). Although Plaintiff failed to adequately dispute the ALJ's findings and determination, Magistrate Judge Burkhardt nonetheless considered the ALJ's decision and concluded that the ALJ applied the correct legal standards and that his opinion is supported by substantial evidence. Finally, Magistrate Judge Burkhardt found that Plaintiff's newly submitted evidence does not merit remand because Plaintiff failed to show that the new evidence is material and that good cause exists for his failure to incorporate the evidence into the administrative record.

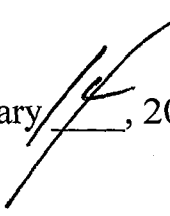
Any objections to the Report and Recommendation were due January 18, 2017. Neither party has filed any objections. For the reasons that follow, the Report and Recommendation is **ADOPTED**.

A district judge "may accept, reject, or modify the recommended disposition" of a magistrate judge on a dispositive matter. Fed. R. Civ. P. 72(b)(3); *see also* 28 U.S.C. § 636(b)(1). "[T]he district judge must determine de novo any part of the [report and recommendation] that has been properly objected to." Fed. R. Civ. P. 72(b)(3). However, "[t]he statute makes it clear that the district judge must review the magistrate judge's findings and recommendations de novo *if objection is made*, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc); *see also*

1 *Wang v. Masaitis*, 416 F.3d 992, 1000 n.13 (9th Cir. 2005). “Neither the Constitution nor  
2 the statute requires a district judge to review, de novo, findings and recommendations  
3 that the parties themselves accept as correct.” *Reyna-Tapia*, 328 F.3d at 1121.

4 The Court has considered and agrees with the Report and Recommendation. The  
5 Court **ADOPTS** the Report and Recommendation. (Docket No. 31). Plaintiff’s motion  
6 for summary judgment is **DENIED**. (Docket No. 28). Defendant’s cross-motion for  
7 summary judgment is **GRANTED**. (Docket No. 29).

8 **IT IS SO ORDERED.**

9  
10 Dated: February , 2017

  
Hon. Roger T. Benitez  
United States District Judge